

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent No on 54: Teachers, Workers, Healthcare, Civil Liberties & Entertainment Groups (“Respondent Committee”) was a primarily formed recipient committee opposed to Proposition 54 in the Statewide Special Election held on October 7, 2003.<sup>1</sup> At all relevant times, Respondent Abdi Soltani served as the committee treasurer. The State Franchise Tax Board (“FTB”) conducted a mandatory audit of Respondent Committee for the reporting period from January 1, 2002 through December 31, 2003.

During the audit period, Respondents received contributions totaling \$5,305,267 and made expenditures totaling \$5,290,611. The FTB auditor concluded that the Respondents substantially complied with the disclosure and recordkeeping provisions of the Political Reform Act (the “Act”).<sup>2</sup> The only material finding was Respondents’ failure to timely file election cycle reports for the receipt of contributions totaling \$90,282.

As a primarily formed recipient committee supporting or opposing a state ballot measure, Respondents were required to file campaign statements and reports online or electronically when contributions received or expenditures made totaled \$50,000 or more. Pursuant to Section 85309, subdivision (b), Respondents were required to file an online or electronic report within 24 hours of receipt of any contribution of \$1,000 or more received during the election cycle.

For the purposes of this stipulation, Respondents’ violations are stated as follows:

**COUNT 1:** Failure to timely file an election cycle report online for a \$1,000 contribution received on September 24, 2003, on or before September 25, 2003, in violation Section 85309, subdivision (b) of the Government Code.

**COUNT 2:** Failure to timely file an election cycle report online for a \$38,559 non-monetary contribution received on September 30, 2003, on or before October 2, 2003, in violation Section 85309, subdivision (b) of the Government Code.

---

<sup>1</sup> Respondent Committee qualified as a committee on May 9, 2002, and filed a statement of organization as “Californians for Civil Rights.” The statement of organization was amended several times changing the committee name to “Coalition for an Informed California/No on 54” and “Coalition for an Informed California/No on 54: Nurses, Doctors, Teachers, Healthcare Providers, Workers, Medical Researchers, Civil Liberties & Healthcare Groups and the American Cancer Society,” before being amended to the name listed above. Proposition 54, which would have prohibited government agencies from classifying people based on race, ethnicity, color or national origin, was defeated in the October 2003 special election.

<sup>2</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

COUNT 3: Failure to timely file an election cycle report online for non-monetary contributions totaling \$3,942 received on October 3, 2003, on or before October 5, 2003, in violation Section 85309, subdivision (b) of the Government Code.

COUNT 4: Failure to timely file an election cycle report online for non-monetary contributions totaling \$46,781 received on October 6, 2003, on or before October 8, 2003, in violation Section 85309, subdivision (b) of the Government Code.

## **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

### **Duty to File Campaign Statements and Reports Online**

In 1997, the Legislature amended the Act to require committees that are significantly active on the state level to file their campaign statements online or electronically. In doing so, the Legislature specifically declared, as set forth in Section 84601, subdivisions (b) and (c), that public access to campaign disclosure information is a vital and integral component of a fully informed electorate, and that advances in technology have made it viable for disclosure statements or reports required by the Act to be filed online, thereby maximizing availability to the public.

Section 84605, subdivision (a) requires all committees required to file campaign statements in connection with a state elective office or state measure to file online or electronically with the Office of the Secretary of State, if they receive contributions or make expenditures of fifty thousand dollars (\$50,000) or more in a calendar year. Once a committee is required to file online or electronically, subject to Section 84605, subdivision (a), the committee is required to file all subsequent campaign statements and reports online or electronically. (Section 84605, subd. (g).)

### **Duty to Report Contributions Received During the Election Cycle of \$1,000 or More**

During the election cycle, a committee primarily formed to support or oppose one or more state ballot measures that is required to file reports online, pursuant to Section 84605, is required to file online or electronically with the Secretary of State a report disclosing the receipt of a contribution of one thousand (\$1,000) or more received during an election cycle. According

to Section 85204, the election cycle is the period of time commencing 90 days before the election and ending on the date of the election. The reports must disclose the same information required by Section 84203, subdivision (a) and shall be filed within 24 hours of receipt of the contribution. Pursuant to Section 84203.3, subdivision (b), a report filed by the recipient of a late in-kind contribution shall be deemed timely filed if it is received by the filing officer within 48 hours of the time the contribution is received.

### **Duty and Liability of Committee Treasurers**

Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds, are complied with. A committee's treasurer may be held jointly and severally liable, along with the candidate and committee, for any reporting violations committed by the candidate and committee. (Section 83116.5 and 91006.)

### **SUMMARY OF THE FACTS**

According to its campaign statements, Respondent Committee reached the \$50,000 threshold requiring statements and reports to be filed online or electronically on December 31, 2002. During the audit period, Respondents received contributions totaling \$5,305,267 and made expenditures totaling \$5,290,611.

#### **COUNTS 1 - 4**

#### **Failure to Timely File an Election Cycle Report Online**

Respondents were required to file election cycle reports online disclosing any contribution aggregating \$1,000 or more received during the election cycle prior to the October 7, 2003 Statewide Special Election. In this matter, Respondents received \$3,286,636 in contributions during the 90-day online reporting period prior to the election, but failed to disclose seven contributions totaling \$90,282 within 24 hours of receipt in an online report. With the exception of the \$1,000 monetary contribution from HMS Associates, all other contributions listed below were non-monetary contributions. Respondents filed the reports after the election in November 2003 upon becoming aware that late contribution reports had not been timely filed. The contributions are shown in the following chart according to the count to which they correspond:

Count	Date Received	Contributor	Amount	Date Online Report Due	Date Online Report Filed
1	09/24/03	HMS Associates	\$ 1,000	09/25/03	11/06/03
2	09/30/03	African American Voter Registration Education & Participation Project	\$38,559	10/02/03	11/06/03
3	10/03/03	Contra Costa County Committee on Political Education	\$ 1,155	10/05/03	11/05/03
	10/03/03	African American Voter Registration Education & Participation Project	\$ 2,787	10/05/03	11/03/03

4	10/06/03	African American Voter Registration Education & Participation Project	\$42,872	10/08/03	11/03/03
	10/06/03	Contra Costa County Committee on Political Education	\$ 1,175	10/08/03	11/05/03
	10/06/03	Standing Committee on Political Education of the California Labor Federation	\$ 2,734	10/08/03	11/05/03
Grand Total			\$90,282		

## CONCLUSION

The amount of contributions not timely reported, totaling \$90,282, is fairly significant. Information regarding the non-monetary contributions was received by an agent of Respondents before the election, and therefore should have been timely reported. Respondent Committee was a well-organized and financed committee with experienced individuals in place to handle campaign reporting duties. As such, they knew or should have known of the requirements for reporting contributions online during the election cycle.

In mitigation, although the reporting error is significant, it was only 2.7% of the total amount of late contributions received before the October 7, 2003 special election. Over 95% of the contributions received during the election cycle were properly and timely reported. Furthermore, this was the only material finding from the FTB audit of a very large campaign.

The administrative penalty for failing to file an election cycle report online has resulted in penalties ranging from the lower to upper range of the available penalties, depending on the facts and circumstances of each case, including the presence of aggravating factors such as the amount of money not reported and whether the violations resulted from negligent or intentional conduct. In this matter, Respondents failed to report over \$90,000 in online election cycle reports prior to and one day after the Special Statewide Election. However, Respondents filed the reports in November 2003, and timely filed reports for approximately 100 other contributions received totaling \$3,196,354. In light of these factors, an administrative penalty at the lower end of the penalty range is warranted for Counts 1 and 3, where the dollar amount was less than \$4,000, and a penalty in the middle range is warranted for Counts 2 and 4 where the dollar amount was more than \$38,000 for each count.

This matter consists of four counts, which carry a maximum possible administrative penalty of Twenty Thousand Dollars (\$20,000). The facts of this case, and the above aggravating and mitigating factors, justify imposition of the agreed upon administrative penalty of Eight Thousand Dollars (\$8,000).